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ADMITTED TO PRACTICE IN:  
ARIZONA, COLORADO, MONTANA,  
NEVADA, TEXAS, WYOMING,  
DISTRICT OF COLUMBIA

October 29, 2009

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Re: SolarCity  
Docket No. E-20690A-09-0346

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are the original and thirteen (13) copies of SunPower Corporation's Response to Staff's Notice of Intent to Provide a Supplemental Witness ("Response") on behalf of SunPower Corporation.

Also enclosed are two (2) additional copies of the Response. I would appreciate it if you would "filed" stamp the same and return them to me in the enclosed stamped and addressed envelope. Thank you for your assistance. Please advise me if you have any questions.

Sincerely,

Angela R. Trujillo  
Secretary

Lawrence V. Robertson, Jr.

Arizona Corporation Commission

DOCKETED

OCT 30 2009

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BEFORE THE ARIZONA CORPORATION COMMISSION

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**COMMISSIONERS**

**KRISTIN K. MAYES, Chairman**  
**GARY PIERCE**  
**PAUL NEWMAN**  
**SANDRA D. KENNEDY**  
**BOB STUMP**

IN THE MATTER OF THE APPLICATION OF )  
SOLARCITY CORPORATION FOR A ) DOCKET NO. E-20690A-09-0346  
DETERMINATION THAT WHEN IT PROVIDES )  
SOLAR SERVICE TO ARIZONA SCHOOLS, ) SUNPOWER CORPORATION'S  
GOVERNMENTS, AND NON-PROFIT ENTITIES ) RESPONSE TO STAFF'S NOTICE  
IT IS NOT ACTING AS A PUBLIC SERVICE ) OF INTENT TO PROVIDE A  
CORPORATION PURSUANT TO ART. 15, ) SUPPLEMENTAL WITNESS  
SECTION 2 OF THE ARIZONA CONSTITUTION )

SunPower Corporation ("SunPower") hereby responds to the October 26, 2009 Staff's Notice of Intent to Provide a Supplemental Witness ("Notice of Intent"), which was received by the undersigned in today's mail.

The Notice of Intent indicates that Staff may or may not have occasion to call Mr. Elijah Abinah as a supplemental witness in the proceedings in the above-captioned matter which resume on November 2, 2009. In that regard, the Notice of Intent refers to the prospect of Mr. Abinah's appearance as a witness as "a convenience to the Commissioners and the ALJ," and "if so desired, by the Commissioners or ALJ." At no point, does the Notice of Intent indicate whether or not the Applicant and Intervenors in the above-captioned proceeding would be afforded an opportunity to cross-examine Mr. Abinah in the event that he is called to testify.

SunPower does not have any objection to Mr. Abinah being called as a supplemental witness to the Commission Staff's evidentiary presentation in the above-captioned proceeding, provided, that SunPower and the other parties of record are afforded an opportunity to cross-examine him if they so desire. The Notice of Intent indicates that Mr. Abinah's testimony could address "high level policy issues" including

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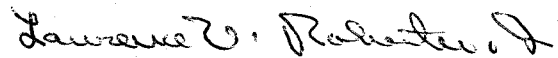
1 "the purpose of regulation, what constitutes light handed  
2 regulation, and what potential features may be present in light  
3 handed regulation should the Commission determine that  
4 regulation is appropriate." [Notice of Intent at page 1, lines 18-21]

5 Clearly, these are crucial substantive matters upon which fundamental due process requires that  
6 all parties be afforded the right of cross-examination.

7 Based upon a telephone conversation between the undersigned and a member of the  
8 Commission's Legal Division earlier today, it is SunPower's understanding that the Notice of  
9 Intent was not designed or intended to preclude such opportunity for cross-examination.  
10 However, SunPower believes it is appropriate to express its views in writing in advance of the  
11 resumption of the evidentiary hearings on November 2, 2009.

12 Dated this 29<sup>th</sup> day of October 2009.

Respectfully submitted,



Lawrence V. Robertson, Jr.  
Attorney for SunPower Corporation

13 The original and thirteen (13) copies of the  
14 foregoing Response will be mailed for filing  
15 this 29<sup>th</sup> day of October 2009 to:

16 Docket Control  
17 Arizona Corporation Commission  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 A copy of the foregoing Response will be  
21 emailed or mailed this same date to:

22 Honorable Jane L. Rodda  
23 400 West Congress, Suite 218  
24 Tucson, Arizona 85702

25 Mr. Bradley S. Carroll  
26 Snell & Wilmer L.L.P.  
27 One Arizona Center  
28 400 East Van Buren  
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26 Phoenix, Arizona 85004-2385

27 Ms. Kelly J. Barr  
28 Salt River Project Agricultural Improvement &  
Power District  
Regulatory Affairs & Contracts, PAB 221  
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24   
25 \_\_\_\_\_

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